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EXAMINER				
HEFFINGTON, JOHN M				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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### Office Action Summary

**Application No.**

10/758,359

**Applicant(s)**

CHENG ET AL.

**Examiner**

JOHN M. HEFFINGTON

**Art Unit**

2179

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 February 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-6, 8, 9, 11, 12, 27-31 and 38 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6, 8, 9, 11, 12, 27-31 and 38 is/are rejected.
- 7) ☒ Claim(s) 40 renumbered 38 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-848)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

This action is in response to filing of 29 February 2008. Claims 1, 2, 5, 6, 8, 11, 12, 27 and 29-31 have been amended. Claims 7 and 10 have been canceled. Claims 13-26 and 32-37 have been withdrawn. Claim 40 (renumbered 38) has been added. Claims 1-6, 8, 9, 11, 12, 27-31 and 40 (renumbered 38) are pending and have been considered below.

#### ***Claim Objections***

1. The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Misnumbered claim 40 has been renumbered 38.

#### ***Response to Arguments***

2. Applicant's arguments filed 29 February 2008 have been fully considered but they are not persuasive.

With respect to the amendments to claims 1 and 27, the applicant argues that Yoakum et al. (US 7,139,797) does not disclose a utility component that factors cost associated with rendering graphical indicia that incorrectly represents the entity's state versus

benefit of rendering graphical indicia that correctly represents the entity's state, with respect to claim 1, and dynamically rendering at least one graphical indicia representative of the state based upon cost associated with rendering graphical indicia that incorrectly represents the entity's state versus benefit of rendering graphical indicia that correctly represents the entity's state, with respect to claim 27. The examiner respectfully disagrees. The claims are drawn only to rendering indicia that represents the entity's state, not indicia that represents the claimed cost or benefit. Furthermore, the claims do not claim a calculation of a cost-benefit, only the factoring or rendering based on cost-benefit. The applicant further argues that the presence information, the activity level and the list of permissible communication methods, of Yoakum are displayed according to user specified rules and not any type of cost-benefit analysis.

Yoakum discloses rendering indicia indicative of an entity's state, i.e. level of communication activity and the most appropriate methods of communication (column 3, lines 38-49). The question is does Yoakum disclose factoring or basing upon cost-benefit when displaying indicia that correctly represents the entity's state versus displaying indicia that incorrectly represents the entity's state.

Yoakum states "based on a profile provided by the user, the presence system evaluates the participation information alone or in combination with the state information and the communication capabilities of the sources associated with the user to create the presence information to deliver to subscribers identifying the preferred way or a

prioritized list of ways to communicate with the user when participating in a communication session. The profile can define different categories of subscribers for which different presence information is provided. Based on available state information, the presence system can provide different views of presence for different subscribers to allow the user to control delivery and use of presence information. Accordingly, different subscribers may receive different presence information based on the same participation and state information and communication capabilities." (column 4, lines 37-52). Yoakum further states that "the state information and the communication capabilities associated with the user may be used to provide a better estimate as to the availability of the user to additional communications while engaged in the communication session." (column 6, lines 11-15). In addition, Yoakum states "Those skilled in the art will recognize limitless variations in profile and rule constructions for evaluating participation information along with any state information and communication capabilities for the presence categories of subscribers and generating presence information to send to subscribing presence applications. Further, any combination of current and past device state information may be used to determine the presence information. Preferably, the presence information is automatically updated for each presence category, if necessary, when changes in state or communication capabilities are detected. Depending on the presence rules, changes in the user participation level, state changes or changes in communication capabilities from a given device may or may not impact the presence information. If the presence information does not change,

then there may not be a need to update the subscribing presence applications 24."  
(column 12, lines 58-67, column 13, lines 1-7).

To paraphrase Yoakum, a user sets up a profile with a set of rules including availability information with respect to different groups and individuals and communication methods. In other words, the user's availability and preferred communication methods may appear different to different other users under the same circumstances. Yoakum also discloses that there are limitless variations in profile and rule constructions for evaluating participation information along with any state information and communication capabilities for the presence categories of subscribers and generating presence information to send to subscribing presence applications, and that depending on the presence rules, changes in the user participation level, state changes or changes in communication capabilities from a given device may or may not impact the presence information. Given the user's state information, level of communication and communication capabilities, Yoakum **estimates** the user's availability.

Merriam-Webster Online (<http://www.merriam-webster.com/dictionary>) defines **estimate** as to judge tentatively or approximately the value, worth, or significance of **b**: to determine roughly the size, extent, or nature of **c**: to produce a statement of the approximate cost of. Merriam-Webster Online further states **estimate** implies a judgment, considered or casual, that precedes or takes the place of actual

measuring or counting or testing out. According to Merriam-Webster Online, formulating an estimate involves approximating a cost of something.

When a user in Yoakum formulates the rules by which the system estimates the various availability measures for different individuals and groups, the user cannot anticipate all of the individuals who might want to contact him/her or all of the circumstances under which he/she might be contacted. The user must make a best-guess estimation for his/her availability to specific groups and individuals under envisaged circumstances.

Yoakum uses the following example to illustrate a set of rules that a user might formulate:

For example, when the user is actively participating in the communication session, the profile may dictate that no one should attempt to contact the user. When the user is an inactive participant in the communication session, the profile may dictate a select group of colleagues and a spouse that may contact the user while all others should not attempt interactive contact (column 4, lines 52-58).

Taking this example, the user has calculated a cost-benefit in excluding all individuals and groups from communicating when he is participating in a communication session and then allowing some individuals and groups to contact him when he is inactive in the communication session. An example cost for excluding all individuals and groups from communicating when he is participating in a communication session, including his wife, is that the user might not be notified of a family emergency. The user has calculated

that his business at hand while participating in the communication session has greater benefit than the percentage expectancy that a family emergency will occur. These cost-benefit calculations get incorporated the user into the rules that he formulates for determining his availability. Merriam-Webster Online defines factor as "to include or admit as a factor -used with in or into<factor inflation into our calclations>, i.e. factoring is not calculating. Therefore it is inherent in the estimation of the user's availability to factor the cost-benefit calculations of the user into the estimation of availability of the user by the system.

With respect to the applicant's traversal of the rejection of claim 2, the applicant argues that Yoakum does not teach the feature "the notification component renders graphical indicia as a function of the at least one user's device's capabilities." The examiner respectfully disagrees. Yoakum discloses a presence application that resides on a subscriber's device. Yoakum further discloses that, in one embodiment, the presence application is implemented in software. Furthermore, Yoakum discloses that the presence application may associate an icon with a given user and control the form of the icon in a manner indicating the best method to contact a given user (column 10, lines 54-67, column 11, lines 25). Yoakum clearly displays user icons specific to a particular subscriber device and each subscriber device may possess different characteristics or capabilities, i.e. some may implement the presence application in software which that some subscriber devices may implement the presence application in hardware while others may implement the presence application in a combination of



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hardware and software. Therefore, the examiner maintains the rejection of claim 2 in light of the amendment.

With respect to the applicant's traversal of the rejection of claim 3, the applicant argues that Yoakum does not teach the feature "the graphical indicia changes based upon the length of time the entity is in the same state." Further, the applicant argues that Yoakum teaches that the status indicator changes when the user state changes. The examiner respectfully disagrees. Yoakum discloses that "Idle" status implies the user's system, although logged on, has not been active recently" (column 1, lines 30-39). The system must make a judgment of how long the user has been inactive before setting the user's status to "Idle". In other words, the user must be active for a period of time **before** the system changes the indicator from an active icon to an "Idle" icon. Therefore, the examiner maintains the rejection of claim 3.

With respect to the applicant's traversal of the rejection of claim 5, the applicant argues that Yoakum does not teach the feature "the notification component dynamically renders annotations or comments as a function of the entity's state, wherein the entity inputted annotations or comments for each entity state." The examiner respectfully disagrees. Yoakum discloses that "provisioning may include establishing a profile for the user providing presence information. **The profile will typically identify devices and there respective participation information and states to monitor**, provide rules for evaluating the participation and state information and communication capabilities to

generate the presence, and identify individuals, systems, or applications authorized to receive the information." (column 10, lines 40-47) Yoakum further discloses "based on a profile provided by the user, the presence system evaluates the participation information alone or in combination with the state information and the communication capabilities of the sources associated with the user to create the presence information **to deliver to the subscribers identifying the preferred way or a prioritized list of ways to communicate with the user** when participating in a communication session." (column 4, lines 37-44). As disclosed by Yoakum, the entity inputs the devices to be delivered to the user singularly or in a list which identifies the preferred ways to communicate to the entity to accompany the presence information displayed to the user. Therefore, the examiner maintains the rejection of claims 5 in light of the amendment.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was

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not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 1-6, 8, 9, 11, 12, 27-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yoakum et al. (US 7,139,797 B1).

Claim 1: Yoakum discloses a system that facilitates notifications, comprising:

- a. a state component that receives information relating to a state of at least one entity, wherein an entity is an individual or group of individuals (column 3, lines 28-67, column 4, lines 1-13);
- b. a notifications component that dynamically renders at least one graphical indicia representative of the entity's state to at least one user (column 1, lines 46-48, column 3, lines 28-67, column 4, lines 1-67, column 6, lines 5-15, column 11, lines 11-25)

but does not disclose the notification component determines graphical indicia to render based upon a utility component that factors cost to the at least one user associated with rendering graphical indicia that incorrectly represents the entity's state versus benefit to the at least one user of rendering graphical indicia that correctly represents the entity's state.

However, Yoakum discloses measuring (weighing) user communication activity or participation to estimate the user's availability. Once the activity is measured, then the system and method formulate a prioritized list of possible communication methods. The degree of participation of the user in a communication activity and the list of communication methods is sent to other subscribing users. Some users may receive different availability information and a different list of communication methods (column 3, lines 28-67, column 4, lines 1-67, column 6, lines 5-15, column 9, lines 49-59, column 11, lines 11-25). Inherent in the calculation of availability and the list of communications sent to different users is the computation of a cost/benefit factor. The system must calculate the cost/benefit of sending varying availability and communication methods to different users. Further, the system must calculate a cost/benefit of prioritizing one communication method over another. Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to add the notification component determines graphical indicia to render based upon a utility component that factors cost to the at least one user associated with rendering graphical indicia that incorrectly represents the entity's state versus benefit to the at least one user of rendering graphical indicia that correctly represents the entity's state. One could have been motivated to add the notification component determines graphical indicia to render based upon a utility component that factors cost to the at least one user associated with rendering graphical indicia that incorrectly represents the entity's state versus benefit to the at least one user of rendering graphical indicia that correctly represents the entity's state to Yoakum because a user might want to know the cost/benefit of prioritizing a list

of alternate communication methods and the cost benefit of sending different availability and communication method list to different users.

Claim 2: Yoakum discloses the system of claim 1, and further discloses the notification component renders graphical indicia as a function of the at least one user's device's capability (column 3, lines 28-67, column 4, lines 1-67).

Claim 3: Yoakum discloses the system of claim 1, and further discloses the graphical indicia changes based upon the length of time the entity is in the same state (column 1, lines 30-39).

Claim 4: Yoakum discloses the system of claim 1, and further discloses an inference component that infers the state of the entity based on extrinsic data (column 3, lines 28-67, column 4, lines 1-67).

Claim 5: Yoakum discloses the system of claim 1, and further discloses the notification component dynamically renders annotations or comments as a function of the entity's state, wherein the entity inputted annotations or comments for each entity state (column 11, lines 11-25).

Claim 6: Yoakum discloses the system of claim 1, and further discloses the user specifies one or more graphical indicia that each correlates to a context of the entity's

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state (column 3, lines 28-67, column 4, lines 1-67, column 10, lines 40-67, column 11, lines 1-25).

Claim 7: (Cancelled)

Claim 8: Yoakum discloses the system of claim 1, but does not disclose the entity defines the order in which users will receive the graphical indicia representative of the entity's state. However, Yoakum discloses a profile that "can define different categories of subscribers for which different presence information is provided. Based on available state information, the presence system can provide different views of presence for different subscribers to allow the user to **control delivery** and use of presence information. Accordingly, different subscribers may receive different presence information based on the same participation and state information and communication capabilities." (column 4, lines 44-52) Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to add the entity defines the order in which users will receive the graphical indicia representative of the entity's state to Yoakum. One could have been motivated to add the entity defines the order in which users will receive the graphical indicia representative of the entity's state to Yoakum because Yoakum defines different priorities for different subscribers and it is reasonable to postulate that a user of Yoakum would want to render information to higher priority users before lower priority users.

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Claim 9: Yoakum discloses the system of claim 1, and further discloses the notifications component is a hardware component that renders indicia as a function of device capabilities (column 10, lines 10-67, column 11, lines 1-10, figure 2B).

Claim 10: (Cancelled)

Claim 11: Yoakum discloses the system of claim 1, and Yoakum further discloses the entity defines a plurality of sets of graphical indicia representing the entity's states, each set comprises at least one graphical indicium that is different from a particular state than the other sets, the entity assigns at least one set for display to a first user and at least one other set for display to a second user (column 4, lines 44-52).

Claim 12: Yoakum discloses the system of claim 1, and further discloses the notification component is used to facilitate dynamic rendering of the graphical indicia for at least one of instant messaging, e-mail, and telephone interaction (column 9, lines 49-59).

Claims 13-26 (Withdrawn)

Claim 27: Yoakum discloses a method of facilitating message notifications, comprising: receiving state information associated with a state of at least one entity, wherein an entity is an individual or group of individuals; and presenting the at least one graphical indicia to the at least one user (column 3, lines 28-67, column 4, lines 1-67, column 6,

lines 5-15, column 9, lines 49-59, column 11, lines 11-25) but does not disclose dynamically rendering at least one user selected graphical indicia representative of the state based upon cost associated with rendering graphical indicia that incorrectly represents the entity's state versus benefit of rendering graphical indicia that correctly represents the entity's state. However, Yoakum discloses measuring (weighing) user communication activity or participation to estimate the users availability. Once the activity is measured, then the system and method formulate a prioritized list of possible communication methods. The degree of participation of the user in a communication activity and the list of communication methods is sent to other subscribing users. Some users may receive different availability information and a different list of communication methods (column 3, lines 28-67, column 4, lines 1-67, column 6, lines 5-15, column 9, lines 49-59, column 11, lines 11-25). Inherent in the calculation of availability and the list of communications sent to different users is the computation of a cost/benefit factor. The system must calculate the cost/benefit of sending varying availability and communication methods to different users. Further, the system must calculate a cost/benefit of prioritizing one communication method over another. Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to add dynamically rendering at least one user selected graphical indicia representative of the state based upon cost associated with rendering graphical indicia that incorrectly represents the entity's state versus benefit of rendering graphical indicia that correctly represents the entity's state to Yoakum. One could have been motivated to add dynamically rendering at least one user selected graphical indicia representative of the



state based upon cost associated with rendering graphical indicia that incorrectly represents the entity's state versus benefit of rendering graphical indicia that correctly represents the entity's state to Yoakum because a user might want to know the cost/benefit of prioritizing a list of alternate communication methods and the cost benefit of sending different availability and communication method list to different users.

Claim 28: Yoakum discloses the method of claim 27, but does not disclose ranking the personalized graphical indicia according to at least one of a number of comments, a number of accesses, and popularity of use. However, Yoakum discloses subscribers ranking users whose presence information is desired (column 6, lines 36-52).

Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to add ranking the personalized graphical indicia according to at least one of a number of comments, a number of accesses, and popularity of use to Yoakum. One could have been motivated to add ranking the personalized graphical indicia according to at least one of a number of comments, a number of accesses, and popularity of use to Yoakum because a subscriber may wish that the system automatically rank users that the subscriber communicates with more often, i.e. most popular, ahead of users the subscriber communicates with less often.

Claim 29: Yoakum discloses the method of claim 27, but does not disclose providing multiple tiles of the at least one graphical indicia for a particular state, wherein each tile differs in part according to a user that the at least one graphical indicia will be

presented. However, Yoakum discloses subscribers ranking users whose presence information is desired (column 6, lines 36-52) and ranking communication methods associated with users ranked by subscribers (column 11, lines 11-25). Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to add providing multiple tiles of the at least one graphical indicia for a particular state, wherein each tile differs in part according to a user that the at least one graphical indicia will be presented to Yoakum. One could have been motivated to add providing multiple tiles of the at least one graphical indicia for a particular state, wherein each tile differs in part according to a user that the at least one graphical indicia will be presented to Yoakum because 1) it is common in the art to graphically represent entities such as users with graphical tiles (US 2003/0020671 A1, paragraph 0019, figure 1), and 2) it would be useful to Yoakum for subscribers to rank users according to the prioritized list of communications methods associate with each user.

Claim 30: Yoakum discloses the method of claim 27, but does not disclose the user presented a plurality of graphical indicia representative of states of a plurality of entities, the user ordering display of the graphical indicia according to priority of the entities. However, Yoakum discloses a subscriber (user) receiving a list of a plurality of users (entities) (column 6, lines 28-31, column 10, lines 23-26) and filtering or otherwise configuring the types of presence information requested (column 13, lines 33-36). Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to add to Yoakum. One could have been motivated to add the user

presented a plurality of graphical indicia representative of states of a plurality of entities, the user ordering display of the graphical indicia according to priority of the entities to Yoakum because the subscriber (user) in Yoakum, as the user (entity) might have a greater need to contact some users than other users.

Claim 31: Yoakum discloses the method of claim 30, but does not disclose automatically ordering display of the graphical indicia based upon the frequency of communication between the user and each of the entities. However, Yoakum discloses a subscriber (user) receiving a list of a plurality of users (entities) (column 6, lines 28-31, column 10, lines 23-26) and filtering or otherwise configuring the types of presence information requested (column 13, lines 33-36). Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to add automatically ordering display of the graphical indicia based upon the frequency of communication between the user and each of the entities to Yoakum. One could have been motivated to add automatically ordering display of the graphical indicia based upon the frequency of communication between the user and each of the entities to Yoakum because a user typically contacts more important users more frequently than less important users, i.e. frequency is one way to prioritize a list of users.

Claims 32-37. (Withdrawn)

Claim 38: Yoakum discloses a system embodied on computer readable storage medium that facilitates notifications, comprising:

- a. means for receiving information relating to a state of at least one entity, wherein an entity is an individual or group of individuals (column 3, lines 28-67, column 4, lines 1-13);
- b. means for dynamically rendering at least one graphical indicia representative of the entity' s state to at least one user (column 1, lines 46-48, column 3, lines 28-67, column 4, lines 1-67, column 6, lines 5-15, column 11, lines 11-25),
- c. means for the at least one entity to define a plurality of sets of graphical indicia representing the entity's states, each set comprises at least one graphical indicia that is different for a particular state than the other sets, the entity assigns at least one set for display to a first user and at least one other set for display to a second user (column 4, lines 44-52).

but does not disclose the notification component determines graphical indicia to render based upon a utility component that factors cost to the at least one user associated with rendering graphical indicia that incorrectly represents the entity's state versus benefit to the at least one user of rendering graphical indicia that correctly represents the entity's state.

However, Yoakum discloses that a user sets up a profile with a set of rules including availability information with respect to different groups and individuals and communication methods. In other words, the user's availability and preferred

communication methods may appear different to different other users under the same circumstances. Yoakum also discloses that there are limitless variations in profile and rule constructions for evaluating participation information along with any state information and communication capabilities for the presence categories of subscribers and generating presence information to send to subscribing presence applications, and that depending on the presence rules, changes in the user participation level, state changes or changes in communication capabilities from a given device may or may not impact the presence information. Given the user's state information, level of communication and communication capabilities, Yoakum **estimates** the user's availability (column 4, lines 37-52, column 6, lines 11-15, column 12, lines 58-67, column 13, lines 1-7).

Merriam-Webster Online (<http://www.merriam-webster.com/dictionary>) defines **estimate** as to judge tentatively or approximately the value, worth, or significance of **b**: to determine roughly the size, extent, or nature of **c**: to produce a statement of the approximate cost of. Merriam-Webster Online further states **estimate** implies a judgment, considered or casual, that precedes or takes the place of actual measuring or counting or testing out. According to Merriam-Webster Online, formulating an estimate involves approximating a cost of something.

When a user in Yoakum formulates the rules by which the system estimates the various availability measures for different individuals and groups, the user cannot

anticipate all of the individuals who might want to contact him/her or all of the circumstances under which he/she might be contacted. The user must make a best-guess estimation for his/her availability to specific groups and individuals under envisaged circumstances.

Yoakum uses the following example to illustrate a set of rules that a user might formulate:

For example, when the user is actively participating in the communication session, the profile may dictate that no one should attempt to contact the user. When the user is an inactive participant in the communication session, the profile may dictate a select group of colleagues and a spouse that may contact the user while all others should not attempt interactive contact (column 4, lines 52-58).

Taking this example, the user has calculated a cost-benefit in excluding all individuals and groups from communicating when he is participating in a communication session and then allowing some individuals and groups to contact him when he is inactive in the communication session. An example cost for excluding all individuals and groups from communicating when he is participating in a communication session, including his wife, is that the user might not be notified of a family emergency. The user has calculated that his business at hand while participating in the communication session has greater benefit than the percentage expectancy that a family emergency will occur. These cost-benefit calculations get incorporated the user into the rules that he formulates for determining his availability. Merriam-Webster Online defines factor as "to include or admit as a factor -used with in or into<factor inflation into our calclations>, i.e. factoring

is not calculating. Therefore it is inherent in the estimation of the user's availability to factor the cost-benefit calculations of the user into the estimation of availability of the user by the system.

***Conclusion***

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John M. Heffington whose telephone number is (571) 270-1696. The examiner can normally be reached on Mon - Fri 8:00 - 5:30 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Weilun Lo can be reached on (571) 272-4847. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JMH  
5/8/08

/Ba Huynh/

Primary Examiner, Art Unit 2179